

SENATE No. 1991

The Commonwealth of Massachusetts

PRESENTED BY:

Walsh, Marian (SEN)

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act relative to the vitality of the parkways.

PETITION OF:

NAME:

Marian Walsh

DISTRICT/ADDRESS:

Suffolk and Norfolk

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. S02122 OF 2007-2008.]

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT RELATIVE TO THE VITALITY OF THE PARKWAYS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 92 of the General Laws is hereby amended by inserting after
2 section 35A the following section:-

3 Section 35B. (a) No person shall operate a truck, bus, motor home, camper, tractor, trailer, semi-
4 trailer or any other motor vehicle with a seating capacity of more than 15 persons on a road,
5 driveway, parkway, boulevard or bridge under the jurisdiction of the division of urban parks and
6 recreation that is restricted to pleasure vehicles only without express consent of the division;
7 provided, however, that light duty trucks, having a gross vehicle weight of 10,000 pounds or less
8 and a maximum overall height of 7 feet or less may be operated on such roadway.

9 (b) As used in this section, ‘express consent’ shall mean a written permit by the
10 division. Express consent shall only be granted if it is determined by the division to serve the
11 public need and after the completion of a formal permitting process to be established by the
12 division, which shall require that:

(1) all parties seeking a permit submit a written application to the division that provides the grounds for which the permit is being sought and a comprehensive description of the anticipated prohibited activity;

(2) the division hold at least 1 public hearing in each impacted community concerning the public need for each permit;

(3) the division provide the local governing body of each impacted community a copy of each permit application not less than 30 days prior to a public hearing on a permit application;

(4) the division, within 180 days from receipt of a permit application, notify in writing each permit applicant and the local governing body of each impacted community of its decision to either grant or refuse to grant the permit; and

(5) the division provide to each permit applicant and local governing body of each impacted community, within 10 days of such notification of its decision, written findings that set forth the reasons for its decision to either grant or refuse to grant the permit.

(c) Notice of the time and place of a public hearing held under this section shall be given by the division, at the expense of the party who submitted the application, not less than 14 days before the hearing by publication in a newspaper of general circulation in the impacted city or town and by first class mail to the local governing body of the impacted city or town.

(d) The term of a permit issued under this section shall not exceed 1 year but shall be renewed if it is determined by the division that the permit serves the public need. All permits shall be revocable at will by the division and shall be nontransferable by the holder. The division may

33 assess a reasonable fee upon the receipt of each permit application and upon the renewal of each
34 permit. All funds collected pursuant thereto shall be deposited in the General Fund.

35 (e) A vehicle that receives express consent as described in this section shall, when accessing a
36 destination situated on a restricted roadway, enter from the nearest unrestricted roadway and exit
37 in the same manner.

38 (f) Judicial review shall be governed by section 14 of chapter 30A to the extent not inconsistent
39 with this section.

40 (g) The division may formulate such rules and regulations as are necessary to carry out this
41 section.

42 (h) A person who violates subsection (a) or (e) shall be punished for each offense by a fine of not
43 less than \$100 nor more than \$500.

44 SECTION 2. Within 30 days after the effective date of this act, the division shall notify
45 anyone who, prior to the effective date of this act, has been permitted by the division to operate a
46 vehicle that is prohibited by section 35B of chapter 92 of the General Laws of the need to
47 comply with said section 35B of said chapter 92. Within 90 days after receiving a notice under
48 this section, a person shall submit a permit application and may continue to operate his vehicle
49 on the roads, driveways, parkways, boulevards and bridges while the decision on his permit
50 application is pending.

51 SECTION 3. Notwithstanding subsection (a) of section 35B of chapter 92 of General
52 Laws, the buses under the care and control of the Massachusetts Bay Transportation Authority

53 may operate on a road, driveway, parkway, boulevard or bridge under the jurisdiction of the
54 division to the same extent that they were authorized to do so before the effective date of this
55 act. After the effective date of this act, the Massachusetts Bay Transportation Authority shall be
56 required to seek the express consent of the division and comply with the permitting process
57 provided in section 35B of chapter 92; provided however that the permitting process shall be
58 deemed to be completed for the Massachusetts Bay Transportation Authority Arborway Bus
59 Terminal Project and the division shall have no more than 180 days from the effective date of
60 this act to render a decision for a permit as provided in section 32B of chapter 92.

61 SECTION 4. The division of urban parks and recreation and the Massachusetts Bay
62 Transportation Authority shall, within 180 days of the effective date of this act, provide a joint
63 report to the clerks of the senate and the house of representatives and the legislature's joint
64 committees on transportation and public safety providing a formal process for reviewing the use
65 of the roads, driveways, parkways, boulevards and bridges under the jurisdiction of the division
66 by the buses under the care and control of the Massachusetts Bay Transportation Authority."